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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,805	09/22/2003	Paul C. Fowler	410724.00003	2166
26707	7590	08/08/2007		
QUARLES & BRADY LLP RENAISSANCE ONE TWO NORTH CENTRAL AVENUE PHOENIX, AZ 85004-2391			EXAMINER BROWN, SHEREE N	
			ART UNIT	PAPER NUMBER
			2163	
			MAIL DATE	DELIVERY MODE
			08/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/667,805	Applicant(s) FOWLER ET AL	
	Examiner Sheree N. Brown	Art Unit 2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This communication is responsive to Application #10/667,805 filed on 09/22/2003. Claims 1-28 are pending and presented for examination.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, 9, 18 and 22 recites, "receiving an authorization to make the first change to the record". Is not clear as to what happens if the change is not authorized. Also, examiner suggest implementing, who is receiving and making the authorization. Therefore, this claim is rendered as indefinite.

Claim 1, 9, 18 and 22 recites, making the first change to the record accessible to the second user. The metes and bounds of this claim is not clear. Therefore, this claim is rendered as indefinite.

Claims 2-8, 10-17, 19-21 and 23-28 are rejected to for depending upon the rejected based claim.

#### *Claim Rejections - 35 USC § 101*

4. 35 U.S.C. 101 reads as follows:

Art Unit: 2163

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim(s) 1-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-28 are directed to a method and system of synchronizing data. This claimed subject matter lacks a practical application of a judicial exception (law of nature, abstract idea, naturally occurring article/ phenomenon) since it fails to produce a useful, concrete and tangible result.

Specifically, the claimed subject matter does not produce a tangible result because the claimed subject matter fails to produce a result that is limited to having real world value rather than a result that may be interpreted to be abstract in nature as, for example, a thought, a computation, or manipulated data.

Claims 2-8, 10-17, 19-21 and 23-28 are rejected to for depending upon the rejected based claim.

#### *Claim Objections*

6. Claims 1-28 are objected to because of the following informalities: Claims 1, 9, 18, and 22 uses the term, "making or make". Examiner suggests using the terms "editing, modifying or updating instead of "making or make". Claims 2-8, 10-17, 19-21 and 23-28 are objected to for depending upon the objected based claim.

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application 2002/0198755 to Birkner et al (hereafter Birkner).

**Claim 1:**

Birkner discloses a method of synchronizing data in a multi-user computer network

[(i.e. hot sync) See Paragraph 0048, 0054, 0223], comprising:

- accessing a record from a database for a first user [(i.e. estimator workstation 152) See Figure 1, Item 152];
- accessing the record from the database for a second user [(i.e. project manager 150) See Figure 1, Item 150];
- requesting a first change to the record by the first user [("change order") See Paragraph 0046, 0200, 0223];
- receiving an authorization [i.e. accepted] to make the first change to the record [("If change is accepted ... ") See Paragraph 0129, 0200, 0223];
- and making the first change to the record accessible to the second user [("update the bid") See Paragraph 0046, 0200, 0223].

**Claim 2:**

Birkner discloses wherein the database is stored on a hard disk [See Paragraph 0039 and Figures 1 & 2] operating under control of a network server [See Paragraph 0034-0039 & Figures 1-3 wherein the "change order module 177" resides on the network server - See Figure 3, Item 177].

**Claim 3:**

Birkner discloses wherein the step of requesting the first change to the record is made to the network server [See Paragraph 0034-0042 & Figures 1-3 wherein the "change order module 177" resides on the network server - See Figure 3, Item 177].

**Claim 4:**

Birkner discloses wherein the authorization [i.e. accepted] for the first change to the record [("If change is accepted ... ") See Paragraph 0129, 0200, 0223] is made by the network server [See Paragraph 0034-0042 & Figures 1-3 wherein the "change order module 177" resides on the network server - See Figure 3, Item 177].

**Claim 5:**

Birkner discloses wherein the step of making the first change to the record available to the second user [("update the bid") See Paragraph 0046, 0200, 0223] is executed by the network server [See Paragraph 0034-0042 & Figures 1-3 wherein the "change order module 177" resides on the network server - See Figure 3, Item 177].

**Claim 6:**

Birkner discloses wherein the first user operates a first workstation running application software [(i.e. estimator workstation 152) See Figure 1, Item 152], which utilizes the record [(i.e.

files) See Paragraph 0223], and the second user operates a second workstation running application software [(i.e. project manager 150) See Figure 1, Item 150], which utilizes the record [(i.e. files) See Paragraph 0223].

**Claim 7:**

Birkner discloses wherein the application software running on the second workstation [(i.e. project manager 150) See Figure 1, Item 150]; executes using the first change to the record [("update the bid") See Paragraph 0046, 0200, 0223].

**Claim 8:**

Birkner discloses the method of claim 1 further including:

- requesting a second change to the record by the second user [("change order") See Paragraph 0046, 0200, 0223];
- receiving an authorization to make the second change to the record [("If change is accepted ... ") See Paragraph 0129, 0200, 0223];
- and making the second change to the record available to the first user [("update the bid") See Paragraph 0046, 0200, 0223].

**Claims 9-17:**

Claims 9-17 are rejected on the same basis as claims 1-8, respectively.

**Claim 18:**

Claim 18 is rejected on the same basis as claim 1, respectively.

**Claims 19-21:**

Claims 19-21 are rejected on the same basis as claims 6-8, respectively.

Claims 22:

A method of utilizing data in a multi-user computer system [(i.e. hot sync) See Paragraph 0048, 0054, 0223], comprising:

- accessing a record from a database to perform a first function on a first network node [(i.e. estimator workstation 152) See Figure 1, Item 152];
- accessing the record from the database to perform a second function on a second network node [(i.e. project manager 150) See Figure 1, Item 150];
- processing a first change to the record on the first network node [("change order") See Paragraph 0046, 0200, 0223];;
- and making the first change to the record accessible to the second network node [("update the bid") See Paragraph 0046, 0200, 0223].

Claims 23-27:

Claims 23-27 are rejected on the same basis as claims 2-6, respectively.

Claim 28:

Birkner discloses wherein the first and second functions involve bidding ["update the bid" See Paragraph 0046] and estimation on a construction project [See Paragraph 0013, 0017 & 0043].



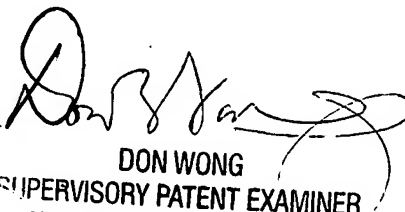
*Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheree N. Brown whose telephone number is (571) 272-4229. The examiner can normally be reached on Monday-Friday 7:00 AM - 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S. Brown  
AU 2163  
August 2, 2007

  
DON WONG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100